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Tuesday 18 October 2016

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Mardi 18 octobre 2016

Standing Committee on Social Policy

All Families Are Equal Act (Parentage and Related Registrations Statute Law Amendment), 2016

Comité permanent de la politique sociale

Loi de 2016 sur l'égalité de toutes les familles (modifiant des lois en ce qui concerne la filiation et les enregistrements connexes)

Chair: Peter Tabuns
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Tuesday 18 October 2016

Mardi 18 octobre 2016

The committee met at 1600 in room 151.

ALL FAMILIES ARE EQUAL ACT (PARENTAGE AND RELATED REGISTRATIONS STATUTE LAW AMENDMENT), 2016

LOI DE 2016 SUR L'ÉGALITÉ DE TOUTES LES FAMILLES (MODIFIANT DES LOIS EN CE QUI CONCERNE LA FILIATION ET LES ENREGISTREMENTS CONNEXES)

Consideration of the following bill:

Bill 28, An Act to amend the Children's Law Reform Act, the Vital Statistics Act and various other Acts respecting parentage and related registrations / Projet de loi 28, Loi modifiant la Loi portant réforme du droit de l'enfance, la Loi sur les statistiques de l'état civil et diverses autres lois en ce qui concerne la filiation et les enregistrements connexes.

The Chair (Mr. Peter Tabuns): Good afternoon, committee members. I'm calling this meeting to order to resume consideration of Bill 28, An Act to amend the Children's Law Reform Act, the Vital Statistics Act and various other Acts respecting parentage and related registrations.

MS. SARA COHEN

The Chair (Mr. Peter Tabuns): I would like to bring forward the first witness, Sara Cohen. Hi, Sara, if you'd have a seat. You have five minutes to make your presentation and then we'll have 15 minutes of questions, rotating through the parties. If you'd start by identifying yourself for Hansard and then we'll go from there.

Ms. Sara Cohen: Great, yes. May I begin?

The Chair (Mr. Peter Tabuns): Please.

Ms. Sara Cohen: Wonderful. Honourable members of the committee, thank you for the opportunity to speak with you today. My name is Sara Cohen and my practice is Fertility Law Canada. I'm also an adjunct professor of reproductive law at Osgoode Hall Law School, the co-chair of the ethics and law special-interest group with the Canadian Fertility and Andrology Society, and a fellow of the American Academy of Assisted Reproductive Technology Attorneys.

I'm fortunate to work with many surrogates and intended parents in Ontario and would like to discuss with you the implications of section 10 of the bill on security of family building through surrogacy. My comments today should be understood in the context of surrogacy only.

First, let me commend Ontario for taking steps to remove discrimination and heteronormative presumptions of parentage and for providing desperately needed clarification that a donor is not a legal parent.

For surrogacy to be a secure, ethical and legitimate method of family building, there are two important components, each of which must be met: The first is clear pre-conception intention; and the second is oversight to ensure no coercion, no fraud and that the pre-conception intention has in fact been met. If either of these pieces is missing, the legitimacy of the process falters.

Bill 28 takes some significant steps on the first point, requiring parties to enter into pre-conception surrogacy agreements and requiring all parties to first receive independent legal advice. I support both of these requirements, which, among other pre-conception requirements, are in line with other well-regarded parentage legislation such as those of California and Nevada.

However, subsection 10(9) specifically states that a surrogacy agreement is unenforceable in law, and subsection 10(5) states that after seven days following a birth, any provision of a surrogacy agreement regarding parental rights are of no effect. Both provisions are problematic and a step backwards for Ontario.

Although the empirical evidence is incomplete, it is clear that the vast majority of surrogacy in Ontario is gestational—I would guesstimate about 95%. Gestational surrogates almost never change their minds about parentage, whereas traditional surrogacy is far more volatile and risky.

Currently in Ontario, we understand gestational surrogacy agreements to be largely enforceable in terms of intention to parent and traditional surrogacy agreements to be unenforceable. Bill 28 makes gestational surrogacy—the 95%—just as legally precarious and insecure as is traditional surrogacy—the 5%. This takes away from intended parents' abilities to securely build their families, but it is also worrisome for gestational surrogates who may want to enforce an agreement against the intended parents but will be unable to do so as a result of subsection 10(9).

The court should not have its hands tied in finding out a surrogacy agreement is enforceable with respect to intention to parent. This would be a step backwards, more in line with less progressive legislation, such as that of Alberta, and will result in less secure family building and likely more unnecessary litigation and expenses.

I refer the committee to subsection 29(6) of the BC Family Law Act, and note that the BC act is silent on the issue of enforceability of a surrogacy agreement in the event of a dispute. I respectively submit that Ontario legislation should follow suit in that regard, or, in the alternative, the legislation should be revised with the statement that in the event of a parentage dispute, the court may only determine that a surrogacy agreement is enforceable on the issue of parentage if the minimum requirements of subsection 10(2) have been met.

The other issue in terms of legitimacy of surrogacy is oversight to ensure no coercion or duress, that all parties consent, that the pre-conception intention has been effected and that there is no fraud. This is especially, but not only, important in a traditional surrogacy situation, which frequently happens outside of a clinic through home insemination and is more susceptible to fraud.

This bill completely eliminates any judicial oversight or other checks and balances over all types of surrogacy in Ontario, instead relying on the intended parents and the surrogate themselves to confirm that the parties met the requirements of section 10(2) of the act and that the surrogate consents to relinquishing the child. I believe this was a well-intentioned effort to remove roadblocks from parenthood, but with these best of intentions will come unintended consequences, and for the short-term gain, Ontario will be paying with long-term pain and cost. In addition, it will undermine a process that helps countless parents and that currently has growing moral legitimacy that could evaporate if under-regulated.

While the federal government is—wrongly, in my opinion—adding teeth to its criminal legislation surrounding third-party reproduction, here, Ontario is taking the exact opposite approach: demonstrating its belief that no oversight of any kind is necessary. This opens a door for fraud and coercion that I believe has been—and that I've seen been—largely avoided as a result of judicial oversight.

With respect, I believe the legislation, as drafted, grossly misjudges the on-the-ground reality, the desperation of some people who want children and the vulnerabilities of all of the parties, and Ontario will be side-stepping its significant obligations and duties to children and women and the integrity of the process.

This is even more concerning in light of the trans-provincial and trans-national aspect of surrogacy, including children being born in Ontario who thereafter leave the province and/or the country and are outside of Ontario's or Canada's jurisdiction and without any oversight. From a global perspective, we have seen jurisdiction after jurisdiction close down surrogacy because of fraud and abuse.

The Chair (Mr. Peter Tabuns): Ms. Cohen, I'm afraid you've run out of time.

Our first questioner is Ms. DiNovo. She may ask you to enlarge on the points that you've made.

Ms. Cheri DiNovo: How much do you have left?

Ms. Sara Cohen: I would say at most 30 seconds.

Ms. Cheri DiNovo: Go for it.

Ms. Sara Cohen: Thank you. From a global perspective, we've seen jurisdiction after jurisdiction close down surrogacy because of fraud and abuse—for example, India. If we want surrogacy in Ontario to continue in the long term, we need to balance the need to access surrogacy with the need to have checks and balances and continued legitimacy.

Finally, I lend my support to my friend Shirley Levitan's comments regarding the need to protect the privacy of a child about whom there is an application for declaration of parentage—note that privacy and secrecy are two very different things—and agree with her that the seven-day waiting period and sharing of medical decision-making during that time is inappropriate and confusing outside of the traditional surrogacy and adoption context.

Ms. Cheri DiNovo: Thank you, Sara, and thanks for all of your work in this regard. In fact, you started to say exactly what I was going to ask about the seven-day waiting and the confidentiality—if you could just expand upon those two points.

Ms. Sara Cohen: In my experience, most of the surrogacy that we see in Ontario is gestational surrogacy, and very frequently—

Ms. Cheri DiNovo: Could you explain what that is? I know that these terms get bandied about, but others are listening. Thank you.

Ms. Sara Cohen: Sure, yes. Gestational surrogacy is where the person who is carrying a fetus on behalf of somebody else has no genetic connection to the parents. Traditional surrogacy is where the person who is carrying a fetus does have a genetic connection to the fetus that they're carrying. Most of what we see in Ontario and, really, throughout Canada is gestational surrogacy.

The current situation is, for the most part, that hospitals right now are listening to the intended parents in terms of making medical decisions once this child is born. This is very important. Very frequently, the surrogate gives birth and goes home to her own family and goes on and lives her own life. She often can't be reached, or may not want to be reached. This is not her child, and she doesn't really feel she wants to give information and make directions with respect to the health care of the child for the next seven days. This could be extremely problematic. It's confusing, and I think it's quite misguided.

Ms. Cheri DiNovo: And the confidentiality was the other issue.

Ms. Sara Cohen: The confidentiality: Recently we had the opportunity to speak in front of Justice Kiteley. The court decision has been provided to you in your documents. There is case law that specifically states that a child born through surrogacy should be entitled to the same protection as is an adoptee. That basically doesn't

mean that we keep things secret; it just means that the public can't go into this record. So we're going to basically not make information about a child's conception available to anybody who wants to find it.

Unfortunately, the way that the legislation is currently drafted, it really is discretionary. When we have discussed it with some of our Ontario judges, they have commented that that doesn't quite go far enough to require them to seal the record.

Ms. Cheri DiNovo: Thank you very much.

The Chair (Mr. Peter Tabuns): Any further questions, Ms. DiNovo?

Ms. Cheri DiNovo: No, that's it.

The Chair (Mr. Peter Tabuns): We go to the government: Mr. Berardinetti.

Mr. Lorenzo Berardinetti: Thank you, Ms. Cohen, for your story and for giving us some enlightenment. I know you've worked with the government, and we are listening. We're definitely listening to the deputants here today, and yesterday as well.

I just wanted to ask you: Can you talk a bit about how important it is for the legislation to recognize families through assisted reproduction?

Ms. Sara Cohen: I think I might be coming from a different perspective than you were, or than many people, where I think it's critically important and it's really extremely problematic to pretend that these children don't exist and these families don't exist. I think that, of course, we need to give these children and these families all the protections that we possibly can. My submissions today really are about how to do so in an effective yet ethical manner.

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Mr. Lorenzo Berardinetti: Okay, thank you. Also, can you tell the committee about your fertility practice here in Ontario? Can you tell us about your practice area and how it has evolved and changed, perhaps, over the years?

Ms. Sara Cohen: Yes. My practice is actually limited just to the practice of fertility law. Most people would refer to it as third-party reproduction. That means I'm working together with surrogates, I'm working with intended parents, I'm working with gamete owners and sometimes I'm working with hospitals or cryobanks etc. We are often entering into pre-conception agreements. Very, very rarely do we have any issues, to be quite honest, in terms of down the road, but that's because we're doing so much work at the pre-conception stage. I think Dara will be speaking to that in a few moments as well.

How have things changed? Whereas I used to have clients come in embarrassed, making comments, perhaps in a heteronormative situation, about, "Oh, I'm going to wear a fake stomach during a pregnancy," I would see people like that six years ago; I never see that anymore. I have lots of people talking, lots of people coming out very proudly and not hiding anymore how they built their family.

Also, I would say about 50% of my clients in surrogacy are cisgender gay men and about 50% are heteronormative. There are a few others.

Mr. Lorenzo Berardinetti: Okay, thank you. That's all I had to ask.

The Chair (Mr. Peter Tabuns): You have no further questions? Anyone else from the government side? There being none, the official opposition: Mr. Hillier.

Mr. Randy Hillier: Thank you very much for being here. I wish that we had a little bit more time so you could have spoken a little slower, so I could have caught everything.

You were talking about the unenforceability of surrogacy contracts, and you suggested that the legislation should be amended similar to the BC fashion, which is vague or it's not mentioned at all. I'm just wondering how that would be of benefit, if it's mentioned at all.

Also, maybe if you could expand on how would these surrogacy agreements actually be enforced by a court, if there was breach of contract. Maybe just expand for us on that.

Ms. Sara Cohen: Sure. The current situation in Ontario on surrogacy is that we don't have any legislation on point. The courts have really used the idea of that pre-conception intention. In the extremely rare event where there has been a dispute in terms of parentage, what I have seen in my practice, at least, is that the courts have enforced the gestational surrogacy agreement.

Mr. Randy Hillier: They have?

Ms. Sara Cohen: Yes, they have enforced the gestational surrogacy agreement. We do not believe that it would enforce a traditional surrogacy agreement, and it would just go down to the best interests of the child.

By leaving it open, it gives the court an opportunity to look at the facts of the case, and they don't have their hands tied. They can actually think about the pre-conception intention and apply the pre-conception intention, instead of only merely considering it as evidence.

I also think that for people who practise in the area of surrogacy—we all understand that whereas people talk all the time about a gestational surrogate changing her mind, it's very, very unlikely. What is perhaps more likely is the intended parents changing their mind. What could that mean to a gestational surrogate if she is trying to enforce an agreement that has been legislated to be unenforceable?

Mr. Randy Hillier: Right. Do you think the legislation ought to distinguish and make certain and different provisions for traditional surrogacy, as compared to gestational surrogacy?

Ms. Sara Cohen: I think the legislation as drafted must. I don't think all legislation must. If we're going to deal with things like a seven-day delay, which I would rather not have, and certain other provisions that I'd rather not see—for example, I'm talking about that part of 10(5)—then I think you have no choice but to distinguish, because otherwise you're taking 95% of the people who are engaging in surrogacy in a gestational

manner and bringing them to the less enforceable level of the 5%.

Mr. Randy Hillier: Right. Maybe if you can explain: I'm not clear what the rationale is for the seven-day period that's in the legislation right now. If you could talk to that, if you know what the rationale is, and maybe expand on what you see are the limitations or the deficiencies in that seven-day period.

Ms. Sara Cohen: Yes. I couldn't speak to the rationale because I did not draft it, but my guess is simply that it's from an adoption model. I think that's largely problematic because we're not talking about adoption. Then, we're dealing with a legal person. This is a pre-conception intention as a result of this pregnancy. These are two very different beasts and they should be dealt with separately.

Not only is there no need for the delay of seven days, but there are so many situations I can think of where this would be problematic and especially—why would we have hospital staff try to figure out under section 10(5) what a surrogacy agreement says or doesn't say, how it should be read or how it should be interpreted before they're able to take proper instructions?

Mr. Randy Hillier: I'm not an expert on this, but I can see it being a problem.

One other thing, if you can comment on it, raises up with a few of the other presenters—

The Chair (Mr. Peter Tabuns): I'm sorry to say this, Mr. Hillier and Ms. Cohen, but we're out of time.

Mr. Randy Hillier: Can I not take up some of the government's time?

The Chair (Mr. Peter Tabuns): No, you can't.

Thank you very much for your presentation.

MS. JOANNA RADBORD

The Chair (Mr. Peter Tabuns): We'll go to the next witness. The next one is Joanna Radbord. Ms. Radbord, you know the procedure. If you'll introduce yourself for Hansard, you have five minutes to present and then we'll rotate through the parties. Please proceed.

Ms. Joanna Radbord: Thank you so much. My name is Joanna Radbord. You have my professional bio, along with my written submissions. To it, I'll add my most proud achievement: I'm a lesbian mother of two sons. I gave birth, but my wife and I had to adopt our own children.

I have been litigating substantive equality for LGTBQ families for almost two decades now. I was counsel in the Rutherford case that was discussed yesterday. In 2006, the court struck down the birth registration scheme because it discriminated against lesbian mothers. A decade later, the government had done nothing to change its discriminatory parentage legislation. So on April 8, 2016, we commenced litigation again.

The case is Grand v. Ontario. There are 21 applicants, and their stories are available to you in the application provided along with my written submissions. The applicants rely on sections 15 and 7 of the charter, seeking substantive equality, security for their children and respect for reproductive privacy.

Under the order of Justice Chiappetta dated June 23, 2016, the Children's Law Reform Act has been struck down as unconstitutional. The government must cure the legislation's discrimination based on sexual orientation, gender identity, family composition and use of assisted reproduction. There is a time frame under the order. The Attorney General was required to table a bill by September 30 that remedies the constitutional defects.

Our case has not been settled on a final basis. We will proceed with the litigation if necessary amendments are not made to the bill. As it stands, Bill 28 does not satisfy the court order or the requirements of the charter. There are problems in sections 2(3), 4, 7, 8, 13 and 17.3, and in the ongoing use of language that is not trans-inclusive.

I'm going to focus on sections 7 and 8, but you do have in the written submissions—and they were handed up yesterday—proposed amendments that would satisfy the requirements of the charter.

Under section 7 of the bill, the biological father now occupies a unique and privileged position. I note the language continues discrimination against trans people. Not all sperm providers identify as fathers. By privileging based on gender, gender identity and sexual orientation, section 7 denies substantive equality and infringes human dignity, personal autonomy, privacy and choice. Moreover, it jeopardizes children's best interests.

Section 7 constitutes differential treatment that discriminates. In a larger social context that undermines our parenting, LGBTQ families are vulnerable and want and need more, not less, security in relation to parental recognition.

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Instead, the bill gives biological fathers definitive parental status: He is and shall be recognized at law to be the parent. Lesbian co-mothers—this is in section 8 of the bill—do not have parallel security, unless they obtain a court order. The spouse of the birth parent is presumed to be a parent. This differential treatment harms lesbian families and our children. The bill has missed the point of the Grand litigation.

All children must have equal status, whatever the circumstances of their conception. Parentage isn't about sperm and egg; it's about the people who choose to bring you into the world and who care for you. Children know who their parents are: the people who change their diapers, wipe their noses, kiss the booboos better, the people who love them. Equality in parentage is in children's best interests.

You heard yesterday that section 7 would also have a terrible impact in the context of adoption. The current drafting changes the law. It would require consent of all biological fathers, even if the father is unknown, unascertainable, a rapist. The birth parent should be accorded privacy and not forced to reveal their sexual and reproductive history. Section 7 undermines equality and dignity of birth parents—overwhelmingly women—and it threatens to leave children languishing in foster

care. Sections 7 and 8 must be changed. We have devised an alternative approach and you have the blackline.

Turning to section 8 in more detail: In this bill, the government has maintained the same approach to lesbian co-mothers as it adopted after Rutherford. The same problem exists that required us to commence the Grand litigation. Presumptions are not enough. You heard Dr. Donna McDonagh's story yesterday.

The Chair (Mr. Peter Tabuns): Ms. Radbord?

Ms. Joanna Radbord: Yes?

The Chair (Mr. Peter Tabuns): I'm very sorry to say that you're out of time. We go to the government and Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you very much for your presentation. As an adopted child, I'm very interested in this, and I just happened to be able to sub in here today. I appreciate all of the hard work that you've done and all of the years that you've put into this.

I thank you for sharing your story and your expertise. I know that the government worked closely with you in drafting this bill. I want to assure you that the committee process is all about listening. This is not the final bill, and that's what committee presentations are about.

This bill strikes an important balance and it acknowledges that biology continues to play a role in determining parental status, as well as intention. The language in this bill ensures that all types of families are protected. By keeping biology, we are ensuring that in the event of an unplanned pregnancy, the birth parent can enforce her rights against the birth father for things like child support payments. Do you agree that it's important that this legislation protects a single parent who ends up with an unplanned pregnancy?

Ms. Joanna Radbord: Absolutely. Child support has to be available to children and there's no controversy there, but it's a question of how we approach this. It is possible both to respect biology and to have child support available to children. We have done that in our proposed amendments. By way of the amendments, it would be possible always to obtain a declaration of parentage, as it currently is possible to obtain a declaration of parentage, against someone who would rather not step forward and act as a parent.

We're not asking for anything new or different than what's currently the law in Ontario. Bill 28 represents a radical departure in this section 7 elevation of the biological father. Biology has always mattered, but we don't need to privilege the biological father above other ways of being a parent. We can still maintain child support payments either by taking child support out of the discussion of parentage, just as custody and access—you're not required to be a legal parent in order to pursue custody and access claims. You might pursue child support without having legal parental recognition for all purposes of the law.

On the other hand, as we've done with our alternative drafting, we've made it so that you would be able to pursue a declaration and then the court would be able to consider DNA evidence. And if someone was found to be the biological father of the child, it would be possible to get a declaratory order and, from that, could flow the child support payments.

So there are options as to how we accomplish that important objective, but the approach that's been used here is misguided and would have very damaging effects, as well as continued discrimination against lesbian co-mother families. Lesbian co-mother families will, in the ordinary course, require semen from outside of the couple. So long as you give biological fathers, in section 7, definitive status, and you give the lesbian co-mother couple merely presumptive status, you have not advanced substantive equality. Instead, you've reinforced discrimination. And the effects for children, in relation to adoption—I would be horrified if this work that we did that was about advancing equality in Ontario wound up having these horribly damaging impacts on the most vulnerable women and children in this province.

Ms. Ann Hoggarth: Just one further question: Based on your expertise, how much money does a family have to spend on average to be legally recognized as their children's parents?

Ms. Joanna Radbord: In the lesbian co-mother context, if you pursue an adoption order in order to obtain legal recognition for both mothers, I'd say the range of cost that I've heard is anywhere from attempting to do it yourself, often with the help of the LGBTQ Parenting Network—you heard Andy Inkster the other day—but that's very time-consuming, very difficult. I know that even in law offices that regularly do adoptions, often the files wind up getting rejected for small problems. It's not easy, but some people do try to do it themselves.

I've heard of one case—this was in a rural area. The lawyer that was available to this family might not have had expertise in this area. They were charged $10,000. I'd say that it's many thousands of dollars, probably $4,000 to $6,000.

The Chair (Mr. Peter Tabuns): Ms. Radbord, I'm sorry to say that we're out of time with the government.

We go to the official opposition: Mr. Hillier?

Mr. Randy Hillier: I'd like to ask you a couple questions, more in your capacity as a lawyer and somebody who has practised family law, to help us understand. Is there anything in this legislation that you see—I'm wondering how this may impact when there is a family breakdown, things such as a ward of the state, if the children's aid society became involved, or the Family Responsibility Office and all those other elements of family law that occupy a lot of our time as MPPs. Is there anything that you would like to share with the committee that you've seen in this bill that we ought to consider or be aware of that may have unseen consequences or unknown consequences in those elements?

Ms. Joanna Radbord: Right now, requiring lesbian couples to obtain adoption orders or declarations of parentage consumes court time, and it's completely unnecessary. So there will be a savings—and a reduction to our court system—to the public purse in the approach that the bill takes. That's an advance.

In terms of the concerns that I've heard you raise with respect to multi-parent families, these families already exist. This bill changes nothing. So right—

Mr. Randy Hillier: No, what I was wondering is that if there is, under this legislation, a breakdown with multiple parents, is there anything with the CAS involvement with that family that then becomes problematic? Or is there anything that you see, in your experience as a family law practitioner, with the Family Responsibility Office? I have no idea how this will impact those agencies in practice.

Ms. Joanna Radbord: There is no difficulty there. Right now, there is so much serial monogamy, so many, in effect, multi-parent families by, let's say, a woman and child who—there's a separation, so the biological father is then paying child support. She remarries or she re-partners and then separates again. Well, he can also pay child support. There is no limit on the potential number of payors of child support, so either it's the biological father or it's someone who stands in the place of a parent. They're all available to pay child support and the Family Responsibility Office will enforce the child support order against all of those potential payors, just as they would in the context of a multi-parent family separation.

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Mr. Randy Hillier: That's a good one. I don't understand—let's say there were two or three or some number of people who had an obligation to make payments for support. If one of those persons was making their share of the payments but the other one or two were not, does it still become an obligation on the one who is paying? Is it joint and several? How does that all work?

Ms. Joanna Radbord: There's a lot of case law on this point, but you often have situations where you have the full-table child support obligation being paid by multiple people simultaneously. It is possible that that happens.

Mr. Randy Hillier: So that they would all be responsible for the full amount?

Ms. Joanna Radbord: It's based on their income. So if you have father one, say, you look at his income and the number of children. There's the child support guidelines. They throw off a number. Father two: We look at his income, and he's supposed to contribute to the well-being of his child in accordance with his financial means. So reflecting his financial means and the number of children to which he stood in the place of a parent, you calculate his child support obligation.

Is it possible that there is a lot of child support going into a particular household? It's possible, but a child is entitled to benefit from the financial means of their parent, and we do that by way of child support.

Mr. Randy Hillier: When I was looking at the California statute, they provide the courts direction on multiple payors of support. This legislation doesn't do that. Do you think it would be an advantage for this legislation to provide the courts some of that direction?

Ms. Joanna Radbord: This has all been looked at in the common law by judges looking at the individual circumstances before them. No. There are cases where there are lesser obligations on some payors; it's not necessarily the full table amount from everyone. But no, judges are able to exercise their discretion. Family law is so specific to the individual circumstances of each family and child. It's important to maintain that, and I think the case law in this area is actually quite well developed.

Mr. Randy Hillier: Maybe one of the things—things like kin care with children's aid societies. We know that there's a drive, with a family breakdown, so that the child is in kin care instead of foster care. Any—

The Chair (Mr. Peter Tabuns): Mr. Hillier, I'm sorry to say that your time is up.

Mr. Randy Hillier: Thank you.

The Chair (Mr. Peter Tabuns): You're a man who roves quite broadly.

Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Joanna. You're a tireless warrior, and you've been doing this for a long time. We're finally almost there.

I just wanted to pick up, first of all, on one of Mr. Hillier's points. Basically what you're saying is, really, there's no difference between an LGBTQ-positive piece of legislation and heterosexual families, in terms of child support or number of parents or anything else—just to make sure that's very clear and out there.

The second issue is, of course, with the amendments, which are critical. You've really said that quite profoundly, that this means, if we don't get those sections right, the government could be back in court with you and with the parents you represent. That would be a travesty and a nightmare considering we've gone through Cy and Ruby's Law with you, a drafting of another bill attempting to correct this, and now this. We want to get it right. To my friends across, we really do want to get it right this time and make this stick.

You mentioned sections 7 and 8. You also mentioned a few of the other sections. Was there anything that I could give you time on to just brush on them?

Ms. Joanna Radbord: Okay. Section 13 is problematic. Superior Court judges currently have the discretion to grant a declaration of parentage where the relationship of parent and child is established and the order is in the child's best interest. The bill would limit a judge's discretion and instead impose restrictions on declarations.

If a pregnant woman with a partner got married one week into the pregnancy and there was another parent involved—say, the sperm donor who's going to be involved with the family and act as a father—the court could not make an order recognizing all three as parents. There has to be an agreement pre-conception.

What is the significance of her being in the first week of her pregnancy? From a child's perspective, there is no difference. The child does not even know what's happening prior to their conception.

I think this fixation on timing is not child-centred in the context of declarations, which are currently widely available on a discretionary basis. The bill should not close the door on discretion. Family law cases, as I was

saying, require individualized determination. A child's best interest must be paramount. Our current approach in the law, that's flexible and responsive to children's actual circumstances, should continue.

Subsection 2(3) is the estates provision. I'm not an estates lawyer, but the section is unclear. I've spoken with estates lawyers who find it to be unclear. What is an "instrument ... not made under an act"? Are people with wills made prior to these amendments required to prepare a new will to protect donor-conceived children? We can't have confusion in the law that only causes conflict and high costs, and we can't have children not protected.

I also support, and you heard about this from Kirsti Mathers McHenry, a proposal to add to subsection 4(4). As you've heard, the courts struck down the Children's Law Reform Act in June and the court order requires that the CLRA not discriminate on the basis of sexual orientation, gender identity, family status or use of assisted reproduction. In this important interpretive clause, it will only be valuable to the courts, and it flows from the court order that we recognize that children must have equality in relation to parentage.

Sections 7 and 8 must be amended. If they are introduced as written, the law will continue to be unconstitutional. I trust the government will take a careful look with respect to declarations, estates and with having a broad interpretive clause that ensures equality for children. Failing amendment of sections 7 and 8, the legislation will not comply with the order of Justice Chiappetta and it will not comply with the charter.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Radbord.

Ms. Cheri DiNovo: Thank you.

Ms. Joanna Radbord: Thank you.

MS. DARA ROTH EDNEY

The Chair (Mr. Peter Tabuns): Our next presenter is Dara Roth Edney. Ms. Edney? You've heard the drill. You have five minutes. If you'd introduce yourself for Hansard at the beginning, and we'll go from there.

Ms. Dara Roth Edney: Thank you for the opportunity and honour of speaking here today. My name is Dara Roth Edney. I'm a registered social worker and reproductive counsellor, working in this field for more than a decade. About 70% of my work includes third-party counselling, meaning I conduct about 85 donor assessments a year, about 95 surrogate assessments a year and provide counselling for over 200 sets of intended parents annually.

I am also the mother of two children born through gestational surrogacy. My oldest daughter, Stella, was born in 2003, just prior to the AHRA being passed. In fact, my husband and I spoke before the standing committee in 2002 regarding Bill C-13. My younger daughter, Lilian, was born after the act was passed, in 2006.

I'd like to start with my personal story. When I was 28 and my husband was 29, we began what would be a five-year journey to have a baby. No words can adequately express the physical, emotional and financial toll of ongoing infertility. Nor are there words to express our devastation on learning that despite years of surgeries and treatments, I would never successfully carry a baby. But surrogacy gave us hope and eventually our daughters.

Our surrogates were kind and thoughtful. We were involved in both pregnancies and we maintain really good relationships with both of them to this day. But these were also the most fraught experiences of my life, as throughout both pregnancies, and for months after the babies were born, I was reminded that I was not considered to be their mother, like when the technician did not allow me in the room to see if our first baby had a heartbeat, because "only parents" were allowed. At our second baby's 20-week ultrasound, when numerous fetal abnormalities were detected, and despite our surrogate literally begging the doctor to talk to us about next steps, he refused. In his eyes, I had no standing. The dawning realization in both pregnancies that if we had to wait months for a parental declaration to acknowledge my role, that meant there was a chance I would not be recognized at all. To anyone who has not experienced this, I am not sure I can adequately portray how terrifying and heartbreaking it is not be recognized as your child's parent.

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That brings me to a few of the concerns I have with Bill 28. As my time is short, I'm going to focus on surrogacy.

First and foremost, I am alarmed at the suggested shared parenting role between surrogates and intended parents. While it is a step forward to have intended parents also recognized as parents from birth, I am deeply concerned about providing equal rights to surrogates after birth. This concern comes not only from intended parents, but is also based on what surrogates want and worry about.

For example, 99% of the surrogates I have ever spoken to are clear that the choice of who the intended parents designate as guardian should be anyone they want, as long as it's not them. The fact that surrogates do not want responsibility after birth for a baby that is not theirs is echoed by their most common apprehension, "What if they don't take their baby?"—ironically juxtaposed with the most common fear of intended parents, which is, "What if she doesn't give us our baby?"

This bill has the appearance of an adoption model, where a surrogate is viewed as a birth mother, someone who may have intended to parent her baby and needs time to decide if she wants to relinquish her rights. But surrogacy is not adoption. Surrogacy from the start is about a woman who has no intent to parent but who is helping those who do intend to parent.

If surrogates do not view themselves as mothers to these babies, if intended parents do not view them as mothers, and if children born from these arrangements are not raised by them as their mothers, why would the law establish and, in fact, insist on this role?

The required seven-day wait period offers a protection very few, if any, gestational surrogates are asking for. It places undue responsibility on surrogates. It offers no realistic protection for parents and it leaves us as well as our babies in untenable and vulnerable positions should there be a medical crisis.

While the bill allows for the wait period to be waived, it also states that agreements are non-enforceable, so that makes this pretty much meaningless.

One could argue that vulnerability and the potential for fraud are more likely in traditional surrogacy, where a woman uses her own egg, since traditional surrogates do not usually have the same oversight. Clinics, lawyers and counsellors are rarely involved in those scenarios. So arguably, the seven-day wait period could be viewed as a necessary protection, since there was likely no protections built in from the start. However, these risks are not present with gestational surrogacy, by far the most common. The fact that this bill does not differentiate between traditional and gestational surrogacy is problematic.

Finally, as I am coming to the end of my time, so I cannot address these issues at length, I want to note my concern about statutory declarations being open and accessible, as opposed to sealed, and voice my significant concern about surrogacy agreements not being enforceable.

I am also concerned that despite the fact that counselling is universally recognized as best practice within AHR, this is not reflected in the bill. Mandatory counselling was part of the original act, and while I am not—absolutely not—here advocating it legally be required in all cases, within the context of surrogacy, counselling conducted by a registered member of a mental health professional college is an essential component in identifying vulnerabilities, reducing risk and protecting everyone involved.

The current law does not work for people using AHR technologies to build their families—

The Chair (Mr. Peter Tabuns): Ms. Edney, I'm sorry to say that you're out of time. We go first to the official opposition: Ms. Martow.

Mrs. Gila Martow: Thank you so much for coming in and for your presentation. What I think people find very confusing about legislation is that—people advocate. We have all kinds of lobby groups and activists who come—not just for this piece of legislation. Somebody can write a private member's bill or the government can work on a bill itself, and there's always fine-tuning and tweaking that we have to do. That's why we do these presentations, because the government, even though they're working with lawyers and experienced people—not everybody can think of everything, so we do need to put forward amendments.

But it seems to me as though the people who were working with the government and were advocating for this and were giving all the information—there were even lawsuits going on. Why do you think, in your opinion—and you may not want to say it—why wasn't this bill prepared to the satisfaction of those people? Personally, I find it a little bit surprising.

Ms. Dara Roth Edney: I guess I'd say I'm not quite sure how to answer that question. I'm not a lawyer so the process of how bills and legislation come to be is just not something that I'm keenly aware of. I do know that there have been numerous situations and circumstances over the years with all of the acts and bills around this where not all groups were adequately consulted.

For example, I know that when the original act was passed, my understanding is that only one surrogate was actually consulted, and she had a bad experience, and she was American. I don't believe there are any surrogates who are speaking today.

I think part of the problem is, when you're dealing with fertility things, these are very personal issues. There has been a question before that spoke about personal feelings for, particularly, straight couples, in terms of talking about their need to use donors, surrogates, all of that—and certainly, talking about people from LGBTQ communities, who are often quite vulnerable and historically, throughout the law, in terms of access to having their own children, have been incredibly vulnerable. There are a lot of reasons why, without a lot of openness and welcoming work from government, it might be hard for some of these groups to come forward. I can't speak more to that.

Mrs. Gila Martow: I'm hearing that these groups all presented their viewpoints and it was quite well known. I think it's quite unfortunate, because I think that there's going to be a lot of work to do to bring this up to snuff.

What I would like to ask you is: Do you see that this bill isn't just about LGBT communities? Because it really isn't. There are a lot of families who struggle with fertility. Obviously, if a woman has a child and she's married to a man, the man is the co-parent, and we're hearing that over and over, that this is where the discrimination comes in with the LGBT family units. But I really appreciate everybody who has come in. I guess I want to make that very clear. I think that there's still a lot of work to be done, and I hope that we can get this right. Is there anything else you want to add to your presentation?

Ms. Dara Roth Edney: I guess I'd like to just respond to that point, that I am one of those people that you're talking about. I'm partnered with a man and I went through years and years and years of infertility and treatment before we had a child. Our only way of having a child was surrogacy. Being able to access technologies like this are actually for everybody. I was almost at the end, before I ran out of time, but, in fact, that is—it's people who are struggling with infertility, which actually also do cross into LGBTQ peoples; people who have medical conditions that are contraindicated with pregnancy; and people who are single.

There are one in six Canadians who deal with infertility, so this is about a huge number of people and access to equitable treatment and parentage and having all of our children be protected and be recognized as our children.

They always were our children. It's just about whether or not it is going to be easy or difficult for that recognition to happen. In my case, and for a lot of the people you've heard speak, it was incredibly difficult. To the question before, about cost, it cost me almost $10,000 to have my children legally recognized as my children.

Mrs. Gila Martow: That's unfortunate, because that money could be going towards raising those children and giving them everything in life.

Ms. Dara Roth Edney: Oh, I agree.

Mrs. Gila Martow: Thank you.

The Chair (Mr. Peter Tabuns): With that, thank you. We go to Ms. DiNovo.

Ms. Cheri DiNovo: Thank you so much, Dara, for coming and telling your story. I know it's not easy, so thank you. I'm sorry you had to go through all of that. We hope that, with this bill, with the amendments that have been proposed, we can make life easier for you.

It has been said by some critics that this bill is somehow slanted against mothers. I'm looking at what is a mother before me, testifying here, in a heterosexual relationship, for whom the current situation does not work. Maybe you could just say something about that and just further to what Ms. Martow has been talking about. It's really about the children. It's really about the well-being of all of our children.

Ms. Dara Roth Edney: Yes, I would agree. I hope I can word this properly, in my nervousness. I think a lot of the issues come with assumptions about what a mother is, assumptions about what a father is, assumptions about what a parent is. A surrogate is not a mother, because she doesn't identify as a mother to the child she's carrying in a surrogacy arrangement. She's not going to be raising that child. I identify as a mother because I identify as female and I am raising the children that I had intended to have. So this idea of motherhood, fatherhood, parenthood—the idea is: Who do these children, for a lack of a better word, belong to; who had the intention to create them; who has the intention to raise them? If you identify as a mother because you identify as female and that is the title you like, you should be able to access that title. If you identify as male and you want to be thought of as a father, great.

This idea isn't taking something away. Women who are surrogates—not calling them mothers is not taking something away from them. In fact, thinking of them as mothers is putting something on them they do not want. They do not want that responsibility, because they have an incredible, valuable, amazing role doing just what it is. A pregnancy doesn't make somebody a mother. Sperm does not make somebody a father. These things are much more complicated than that, much more nuanced, and also quite obvious: Who are the people who are intending to be parents? Who are the people who are putting these pieces together? How do they identify in terms of their gender, and what is it that the family is meant to be?

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As people have said before, this isn't reinventing the wheel. My daughter was my daughter. Just because the government took time to decide and recognize that I was her parent didn't mean she wasn't my daughter, but it did mean that I was afraid that the government wouldn't see that.

Ms. Cheri DiNovo: And ultimately, what's most important is who loves and cares for the child, who desires and wants the child, and the best interests of the child. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much. We go to the government: Ms. Kiwala.

Ms. Sophie Kiwala: I want to thank you very much, Dara, for coming in and for your very, very powerful testimony. It was pretty impactful. I've been in the same position as you for 10 years.

The Chair (Mr. Peter Tabuns): Ms. Kiwala, we can't quite hear you. Can you bring your microphone over?

Ms. Sophie Kiwala: Oh, sorry. I was just acknowledging Dara for her very powerful contribution that she made today. I wanted to tell you that I've been in the same position for—I tried to have a child for 10 years. I know how it feels. Fortunately, I was able to have one after I—well, we won't go there, but anyway I understand about the surgeries. I understand about the emotional pain. You've been through an awful lot.

You said you were nervous. We don't get that here. What we get from your testimony today is that you've done a very, very powerful job of representing your side of the story, and I just wanted to acknowledge you for that.

Ms. Dara Roth Edney: Thank you.

Ms. Sophie Kiwala: I want to go over a couple of points. I'm not a lawyer. This is a very technical piece of legislation. I'm very glad that we're in a society where we can have this kind of discussion about families. I'm glad that MPP DiNovo has brought forward this bill. During the last session, I was happy to speak to it and happy to support it.

I want to just go through a few points about surrogates. That's the main thrust of your story. The surrogate and the intended parents must enter into a written agreement before a child is conceived. Through this piece of legislation, the surrogate and each intended parent must receive independent legal advice, which is great, and the surrogate must provide written consent to give up their parental status following the birth of the child. Those are some of the pieces that are integral in the legislation as it is now.

If the surrogate does not consent to give up the child, the intended parents would need to get a court declaration to become parents. I'm wondering if you can talk about how important it is for the legislation to recognize that the use of surrogacy is something that is happening right across this province.

Ms. Dara Roth Edney: In other words, have something in the legislation that notes how often this is happening, for example? Sorry; I am just not clear on the question.

Ms. Sophie Kiwala: No, it's okay. Just talk a little bit about, yes, the prevalence of surrogacy across the prov-

ince, and maybe you can talk a little bit about some of the positive aspects around surrogacy. It's important for us to know what is good in the bill, what is bad in the bill and what we should be tweaking. But if you could focus a little bit on what is positive around the surrogacy piece within the bill as it is now.

Ms. Dara Roth Edney: Okay. I would start by saying something similar to what you said, which is that I'm not a lawyer. I read this bill as carefully as I could. A few of the things that stood out for me were—my understanding is that the bill now recognizes that intended parents are also parents. It is a shared piece, which is certainly better than not a shared piece, whereas an idea before that the surrogate, because she gave birth, is automatically the parent, and the intended father—and I think we spoke about the way that the biological male is considered. In my case, there was never a question that my male partner was considered to be our child's father. Nobody questioned his role; it was always mine. This certainly seems to be an improvement, the recognition that the intended parents are also the parents. I think that that's great. The concern is around that shared parenting role in those seven days. If everything goes smoothly then potentially not a problem, but things don't always go smoothly with childbirth and with babies.

One of the things that I think is really important to stress is that often when talking about surrogacy, there's a feeling that the concern is about the intended parent without concern for the women who's pregnant and the women who has delivered this baby. Certainly, this idea of shared parenting, it's not something surrogates want; they don't want that responsibility. They certainly don't want to imagine that nobody is taking care of a baby, but their idea is that they're doing this for somebody else—

The Chair (Mr. Peter Tabuns): With that, I'm sorry to say, we've run out of time. Thank you very much, Ms. Kiwala. Thank you, Ms. Edney.

Ms. Dara Roth Edney: Thank you very much.

MR. JOE CLARK

The Chair (Mr. Peter Tabuns): Our next presenter is Joe Clark. Mr. Clark, if you could have a seat. You've heard the routine. Introduce yourself for Hansard. You have up to five minutes, and then questions will rotate between the parties.

Mr. Joe Clark: Hi, and thanks for having me in the big chair here. I'm Joe Clark, I live in Toronto and I'm a journalist and author. I wrote about 400 articles for newspapers and magazines, including over 100 for the gay and lesbian press. I also wrote a couple of non-fiction books on pretty uninteresting topics. I am very committed to protecting and defending the legitimately constituted gay and lesbian community.

I'm glad to have the opportunity to talk about Bill 28, the Handmaid's Tale Act. That's what I call it because this is a bill that literally rewrites motherhood and fatherhood. In fact, it redefines motherhood out of existence.

The original reason why this bill exists is to make it legally straightforward for gay and lesbian couples to be recognized as the parents of their respective children—not "queer" couples, please; please, don't use that word. That's all we need and all we needed in this legislation but, in a classic example of scope creep driven by what is actually a pretty creepy transgender agenda, this bill attempts to rewrite human biology.

I'm sorry to be the elder gay journalist who's saddled with the task of telling you about the birds and the bees, but here it goes: Males have XY chromosomes and a penis and testicles. For reproduction, males produce spermatozoa. Females have XX chromosomes, breasts, a uterus, Fallopian tubes, and a vagina and clitoris. For reproduction, females produce eggs or ova. There; you've just heard the immutable biological facts about Homo sapiens. These facts are just as immutable as Newton's laws or saying two plus two equals four.

It is not true that there are really are two kinds of men, those with vaginas and those without. Men don't have vaginas or female anatomy. It's equally untrue that there really are two kinds of women, those with penises and those without. Women don't have penises or male anatomy. These are basic biological facts. There are two sexes—two, not an unknown number or any other number.

What this bill manages to do is erase motherhood completely. It also takes a good stab at eliminating fatherhood, but for some reason doesn't quite go all the way there. For example, part 2 of the Children's Law Reform Act is simply repealed. Subsection 4(1) there says, "Any person having an interest may apply to a court for a declaration that a male person is recognized in law to be the father of a child or that a female person is the mother of a child." That is just gone.

You're trying to change the Vital Statistics Act so that, to quote from that act, "'birth' means the complete expulsion or extraction from its mother of a fetus..." and "'still-birth' means the complete expulsion or extraction from its mother of a product of conception...."

Into this Orwellian doublespeak nightmare, "'birth' means the complete expulsion or extraction from a person of a fetus...."

Your bill also says the following, pretty baldly: "The definition of 'still-birth' in section 1 of that act is amended by striking out 'from its mother' and substituting 'from a person'."

If this law passes, mothers will not give birth, mothers will not undergo the tragedy of stillbirth; generic, bodiless, sexless persons will do so. There are no generic, bodiless, sexless persons in existence, let alone in Ontario.

Could I ask the men on this committee—it's pretty obvious you're men; I don't have to ask for your preferred pronouns, not that I do that sort of thing—if they as persons have ever expelled a fetus or had a fetus extracted from them.

Your bill also makes many references to "birth parent." There is only one kind of birth parent and that is a birth mother. The only one giving birth is the mother and she is a she, a woman, a girl, a female. There aren't two ways about it, literally or figuratively.

None of you were ever elected, least of all on a mandate, to socially engineer the province of Ontario. You were not elected to define motherhood out of existence. You really weren't elected to suppress and deny femaleness, girlhood, womanhood and motherhood, but that's what this bill does.

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You simply do not have the authority to make sweeping changes of this scale, and they can't be fixed by tinkering. You have to delete every attempt to re-define motherhood and fatherhood in sex-neutral terms. Mothers are drawn from the biological sex "female" and fathers from the biological sex "male." I can't believe I have to be the one to tell you that.

The cure is worse than the disease here. Remember, you had one job: clearing up parental rights for gay and lesbian couples. Yet you arrogated the right to redefine motherhood and fatherhood and simply deny biological sex. Really, how dare you?

That's the end of my remarks. I'd be happy to sit here and endure the ritual berating that government committees visit upon unco-operative witnesses.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Clark. You've used your five minutes.

We start with the third party: Ms. DiNovo.

Ms. Cheri DiNovo: Mr. Clark, you support same-sex marriage?

Mr. Joe Clark: Without hesitation.

Ms. Cheri DiNovo: We have many mothers behind you who are married women who want equal rights before the law and do not have them right now. In fact, as you perhaps heard, there was a charter challenge. It was successful, and that's why we're here: to give them equal rights before the law as mothers. So what's not "motherhood" about that?

Mr. Joe Clark: Do you believe that a male-to-female transsexual can be a mother, Ms. DiNovo?

Ms. Cheri DiNovo: Absolutely, and they are.

Mr. Joe Clark: And you're wrong.

Ms. Cheri DiNovo: Okay—

Mr. Joe Clark: Human biology did not change because you got elected to the Legislature, Ms. DiNovo—

The Chair (Mr. Peter Tabuns): Mr. Clark and Ms. DiNovo, both of you, if you are going to have an interchange, please address me, and I will have your microphones turned on. If you're talking at each other, it's impossible for Hansard to keep a record.

Ms. Cheri DiNovo: Mr. Chair, I apologize. I will talk to you.

The Chair (Mr. Peter Tabuns): Thank you. Ms. DiNovo, you're recognized. You may speak.

Ms. Cheri DiNovo: Mr. Clark, do you recognize that in the province of Ontario, gender identity and gender expression are protected under the Ontario Human Rights Code?

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo. Mr. Clark.

Mr. Joe Clark: Mr. Chair, I am aware of that, but so are sex, sexual orientation and family status, as protected grounds under the code.

The Chair (Mr. Peter Tabuns): Thank you. Ms. DiNovo.

Ms. Cheri DiNovo: Really, what can one say? That's it for me.

The Chair (Mr. Peter Tabuns): Do you have any further questions?

Ms. Cheri DiNovo: No.

The Chair (Mr. Peter Tabuns): Thank you. We will go to the government. Is there a person from the government side who would like to ask a question? Mr. McMeekin.

Mr. Ted McMeekin: Yes, I would like to, I guess. Mr. Clark, your presentation was certainly different from most that we've heard. It takes some courage, I suspect, to come out and to, as you said—but I don't intend to berate your presentation.

I do simply want to suggest that we're proposing to update the law so that all parents and their kids can be treated equally under the law. We've been instructed to do so. We have a court rendering that has lamented the lack of that right and has instructed the government to get on with making the changes that are necessary.

Are you questioning the legitimacy of the court system that reviewed this particular case as human rights legislation? Do you think their court doesn't work? Would that be your position?

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. Mr. Clark.

Mr. Joe Clark: Mr. Chair, no, that's certainly not my position. My position is that the Legislature had a mandate as a result of that court case to clear up legal parentage rights for gay and lesbian couples. The legislation, as presented, represents massive scope creep and attempts to redefine human biology, which is something that no one requested, let alone the court.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Clark. Mr. McMeekin.

Mr. Ted McMeekin: Well, I would just say, you call it scope creep. I would respectfully suggest that we're not anxious as a government, nor, I suspect, are any of the parties represented here, to go through another court challenge because we didn't go far enough. I think that's a serious consideration. A kid is a kid is a kid; a mother is defined by intent. I think I've heard enough of that to believe that. This is an attempt on the part of the government and some others here to get this sorted out as per the court's direction.

Other than that, I don't have a question for you. That's just, I guess, respectfully, a difference of opinion. Thanks for coming out.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McMeekin. We go to the official opposition: Ms. Martow.

Mrs. Gila Martow: I'm reminded of a couple of things. One is that oftentimes, people who buy land and build a house will say, "Well, that's it. We don't want

any more development. I've already built my house and I'm very happy and nobody else should use land to build a house." They want to stop development.

We all know that there are places in the world that don't recognize people of different gender identities or different sexual orientations. It wasn't even that long ago in Canada that people had a hard time living openly the way they wanted to live and felt comfortable and the way we're living now today in society. So that bar moved. That piece of land was developed. That bar moved just where you, Mr. Clark, became comfortable, where homosexual relationships were considered the norm. You've moved the bar.

Ms. DiNovo asked you if you accept gay marriage, because she wasn't sure, and when the bar moved to accept gay marriage, you were happy. The bar was where it suited you—it suited your lifestyle; it suited your views—and the bar should just stay there.

What I'm suggesting is for you to open your mind, which is why we invite people to come to these committee meetings. It is quite interesting to hear all the different points of view, and how respectful everybody is to each other's point of view makes it really wonderful. But what I would ask you is if you could take a second to imagine what life was like 100 years ago, if you would have been born 100 years ago, and if you can maybe think about people who the bar hasn't moved quite yet for them. That's what we're addressing here: to move the bar to be fair to everybody in the best interests of the child. That's what we keep bringing it back to.

Did I use up the time?

The Chair (Mr. Peter Tabuns): Is that a question?

Mrs. Gila Martow: Yes. The question is, can you imagine maybe allowing that bar to move to make life better for other people as well?

The Chair (Mr. Peter Tabuns): Thank you, Ms. Martow. Mr. Clark.

Mr. Joe Clark: To respond to your analogy there, first of all, I don't have a lifestyle; I have a life. But when you described how the law changed to accept reality in my terms, well, that's true. There were gay and lesbian relationships since time immemorial, and those eventually became codified into law. But what the present bill does in the specific context that I'm addressing you about today does not bring the law into acknowledgement of reality. The law is actually in active denial of reality.

I heard from our friend over here that, of course, motherhood relies upon intent. That may be true. Motherhood also relies on being biologically female. A mother who delivers a fetus or has a stillbirth is a biologically female person. This law specifically denies that and states that, under one of the clauses that I read for you today, birth merely happens to generic persons, not females. So, in fact, the analogy you gave is not applicable here.

You are regressing the bar. You, as legislators, are producing a bit of fiction, indeed, rather a lot like The Handmaid's Tale, that you are trying to induce Ontarians to accept as reality. All Ontarians know that mothers who deliver babies are female, and that fathers who produce spermatozoa are male.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Clark. Ms. Martow, you have no further questions?

Mrs. Gila Martow: Yes. I would just ask how you feel about, say, a stay-at-home father. Does that mean he's just a parent? This is all about labels, I think, and I think what we're trying to address is the traditional model of the mother doing mothering, and now we're seeing so many fathers who really are taking on the roles that traditionally women did. We're seeing women working and men doing those first, early, formative months with children, and I don't think that "mother" is about whether you're XX or XY. I think that that's where our difference of opinion lies.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Martow. Mr. Clark?

Mr. Joe Clark: Was there a question there? I've actually known quite a few stay-at-home dads. I've personally taken care of eight-year-old identical twin boys. In the scenario you have just described—this is one of those rare cases when having a degree in linguistics helps—the super-category is "parent," but that person there is a father; right? So you can be a parent and a father in the way that a thumb can be a thumb and a finger, or a leg can be a leg and a limb. You're subject to two categories there. But there's no suggestion that that a father is actually a mother because that father did not give birth to the child vaginally or by Caesarean section in the scenario that you've just described.

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Mrs. Gila Martow: No, I'm just saying that it's very interesting.

The Chair (Mr. Peter Tabuns): And with that, Ms. Martow, we're out of time. Thank you, Mr. Clark.

MS. JENNIFER MATHERS McHENRY

The Chair (Mr. Peter Tabuns): Our next presenter then is Jennifer Mathers McHenry. Ms. McHenry, as you've observed, you have up to five minutes to present. If you would identify yourself for Hansard and then make your presentation.

Ms. Jennifer Mathers McHenry: Thank you for having me. My name is Jennifer Mathers McHenry. I am a lawyer. I'm also mother to Cy and Ruby, after whom Bill 137 was named. I am here today largely with my lawyer hat on, as opposed to my mom hat, but you can ask me about both. My wife is Kirsti Mathers McHenry, whom you've all heard from yesterday. The one thing that I will say unequivocally is that she is as much of a mom as I am and she always was.

That is the position from which we came to all of this, now two years ago. Part of what I want to talk about a little bit is the work that we've done, and the work that we've done over the course of the last two years with the assistance of Mr. Tabuns, with the assistance of Cheri DiNovo and with the assistance of a number of individuals within the government as well, and some of the

thinking that we have done in terms of how we should address this legislation, because I think that, when the Children's Law Reform Act was drafted in 1978, we didn't exist. Our kids didn't exist. There was no way to bring them into being in the ways that we can bring them into being now. So the way that the law was drafted is that there were a number of presumptions created that were really about recognizing social dads, because we were going to assume, absent biological proof, that the people who were raising children—it was in their interest to have those people recognized as dads.

Things have gotten a little more complicated since then. Our children exist. Trans people exist and recognized and are entitled to equal rights—notwithstanding the comments of some who don't seem to believe in them. We have to think about how we reorient our thinking when it comes to who is a parent, who do we want to be a presumptive parent, who do we want to be a definitive parent and why it is in the interest of children, in some cases where possible and where appropriate, to have definitive parentage, as opposed to presumptive.

There are, what I would call, four deal-breaker sections that have to be amended in order for us to get this right. Those sections are 4, 7, 8 and 13. You should have in front of you—or at least I passed it out at the beginning—a one-pager for each of those sections to make them a little easier to look at as we're talking. I'm going to speak to each of those sections in turn, and why a group of us has gotten together and suggested the particular amendments that we have, with a view to beginning to reorient our thinking of where all of this comes from.

The first section is section 4—I'm going to do this very quickly. The major change we've made here is we have said that this section "establishes" parents. That is absolutely vital. The previous iteration of the draft said that a parent was someone who is "determined" under other sections to be a parent. That speaks to a determination that is made extrinsic to the legislation. That's not what we're aiming for. It puts us—parents like Kirsti and I, I mean—in a position of still having to get that determination. That is the whole point that we are trying to avoid. So that's out. That has to go.

The other piece is—and my wife spoke to this as well yesterday, but I want to highlight it very briefly—that it is so important that we indicate right on the face of the legislation that there is to be no distinction between the status of children based on the parents' sexual orientation, gender identity, marital status, family status or use of assisted reproduction. Again, it's the point. That made its way into the CLRA in the late 1970s, when we said that there is to be no distinction between kids who are born inside and outside of marriage. It helped judges really wrap their heads around what the legislation was meant to accomplish, and we should be doing the same thing here.

That brings me to sections 7 and 8. I think that the one thing that is very important to understand is that these are really a basket of amendments. You can't pick and choose. They have to come together, and these sections have to be considered together. Sections 7, 8 and 13 must operate together in a way that makes sense.

The way that the current section 7(1) reads is catastrophic. It needs to go. It needs to change. The question is, what do we replace it with? I'm not going to belabour exactly why it's catastrophic, because I think that we all understand that by now.

What we have done instead is said, "Okay, unless the contrary is proven, here is a whole list of people who are going to be presumptively parents." It mirrors really what we've done in the Children's Law Reform Act now, as in the 1978 version, but it makes it gender-neutral. So if you are married to somebody who gives birth and you were there when the child more or less would have been conceived, we're going to presume you're a parent. Then the question is: Okay, but that's just a presumption. In what circumstances does it make sense to go a step further? In what circumstances can we give children definitive parentage?

In our view, those are the people who fall under our new section 8. People other than a birth parent will be recognized in law to be the parent of a child if they were the birth parent's spouse at the time the child was born, if they were married to them at the relevant time or if they were in a conjugal relationship at the relevant time and they sign up—in other words, they certify the child's birth.

Those are situations where everybody is on the same page. There is no conflict; there is no question. Biology is not relevant to the determination of who intends to parent that child, nor should it be. There is absolutely no reason to do anything other than provide definitive parentage to children who are born in those circumstances.

Nobody thinks that biology should be rendered irrelevant. Some people do; that's not true. I'm not telling you that biology should be rendered irrelevant. But what it cannot be is elevated above every other kind of parenting in a way that creates the unintended and truly catastrophic consequences we've already talked about.

The Chair (Mr. Peter Tabuns): I'm sorry to say, with that, you've come to the end of your time.

Ms. Jennifer Mathers McHenry: I went as fast as I could.

The Chair (Mr. Peter Tabuns): I'm impressed by your speed.

Questions go first to the government. They may want to give you some time to expand, but I leave it to them. Ms. Kiwala.

Ms. Sophie Kiwala: Thank you. You can certainly finish your submission.

Ms. Jennifer Mathers McHenry: The first thing that I will talk about a little bit is that there are these situations where we should be sure. Those are the circumstances I was just talking about.

Then the question is: What role does biology play? We now know that, in the way that families are created, it is not the magic bullet. It is not the determinant for all

purposes, and it can't be. But we absolutely need to make clear—and that's where section 13 and declarations come in—that it is available to a woman who gets impregnated by a man; that she can obtain support; that that person, if he wants to be involved in the child's life, absolutely should be able to insert himself, and that is possible. But then the question is: That's kind of the system we've got now, and it's not broken so much, and why do we need to go a step further for some families? The answer, for my purposes, is: to obtain certainty.

I think the best way that I can really drive home why certainty is necessary is the fact that it disturbs me to no end, to come back to my original statement that Kirsti is as much of a mother as I am, that if we had broken up—and we didn't; I still love her; we're going to stick with it—in the intervening time between when we conceived of our children, when we had them together, when we planned them together, when I got pregnant and before I gave birth, I could have made the argument that she was somehow less than me. She wasn't; she never was. Take that weapon out of my hands. I like to think I would never have used it, but we know that people do. We heard from Donna McDonagh yesterday. People will use whatever they can when they are hurting and when their relationships are breaking down. We want to take that particular tool—and that particular way of gumming up the court system, by the way: having to make these determinations of who's really a parent—out of the hands of people as much as makes sense.

Where you've got two people who are in a conjugal relationship who get together, who make a baby, who sign on and say, "I'm in for this," then there is no reason in the world that that should be open to challenge later.

Ms. Sophie Kiwala: Thank you. I do very much appreciate your being here. I'm also very happy that I had the opportunity to be here today, because I'm not normally on this committee. It was thrilling for me, actually, that I had this opportunity.

I really do want to acknowledge you and Kirsti for all your work that you've done on this bill. You've provided an awful lot of good feedback, and we've had some communication after the bill was introduced previously. I appreciated that enormously. There's certainly no doubt, I think, in anybody's mind that LGBTQ and two-spirited families have challenges when they're building their families—and I love that term, "building families." I think it's important that we as a society wrap our heads around that. But there's no doubt that those families are vulnerable and we do need to protect them.

As has already been said, this committee process is about listening and hearing everybody's ideas about how we can improve this bill. I'm wondering if you can tell the committee how the bill will help families. What do you feel in this bill is your favourite part of the bill?

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Ms. Jennifer Mathers McHenry: There are a number of parts of the bill that I think are fantastic. I think the degree to which it is trans-inclusive, although there's some tweaks needed there, is amazing. The degree to which it recognizes that there are all sorts of different kinds of families and that those should all be recognized is amazing. I think that there has been some hesitation from some corners, occasionally, about multi-parent families: gee, might those be complicated? Well, yeah. So are two-parent families. We get that, I think, as a group, and I'm so happy to see that multi-parent families are not going to have to jump through more hoops than everybody else.

At the end of the day, if they have complications, whether those people are legally recognized as parents from the outset or not, those conflicts already exist; those conflicts are already in court. Those obligations still have to be sorted out. That thrills me.

When we get sections 7 and 8 right, I'll be really excited about those two.

Ms. Sophie Kiwala: Okay; very good. No pressure, right?

I also know that the government has been working really closely with—

The Chair (Mr. Peter Tabuns): Ms. Kiwala, I'm sorry to say you're out of time. We go to the official opposition: Mr. Hillier.

Mr. Randy Hillier: Thank you for being here. I'm just looking at the notes that you've provided. There have been a lot of discussion about section 7 throughout yesterday and today. Maybe you can expand on this—I'm sorry if you did already and I missed it while I had to step out. You've got 7(1) on presumptive parentage. It reads, I think, pretty much the same as what is already in 7(1). And then you have the five criteria listed below that. In the present legislation, that shows up at 7(2), but with the same criteria. What is the difference? What are we trying to achieve there? It appears to be the same language.

Ms. Jennifer Mathers McHenry: Much of the same language appears, but the key distinction is that we flipped who is presumptive and who is definitive. We focused on making definitive those parents who intend to parent, rather than those men who have ejaculated. I think that the key for that is the issues that were identified yesterday with respect to adoption and with respect to rendering a rapist, for example, a father. No one intends that. It is simply not possible to make biology the magic bullet without anything else—without any involvement, without any best-interest test—without those unintended consequences. So we've created presumptions for those dads who should have a presumption and who should have access to a declaration.

Those dads or moms who are in the non-messy-type situations, who are in a relationship, who are there at conception, who are there at birth, who sign on—they're done; they're protected; they're definitive. Their kids never have to worry that one of their parents is going to turn to the other and say, "You're not a real mom," or, "You're not a real dad."

Mr. Randy Hillier: Okay. Thank you.

The Chair (Mr. Peter Tabuns): That's it? Thank you, Mr. Hillier. We go to the third party: Ms. DiNovo.

Ms. Cheri DiNovo: Yes. Thank you, Jennifer, and thank you for all that you and Kirsti have done. I'm going to give you my five minutes to tell your story, because I think there are people in this room that would really benefit from hearing it—why you got involved in the first place; the story of the birth of your child.

Ms. Jennifer Mathers McHenry: Well, sure. We got together about a decade ago. I believe that on our second date—our third, maybe—Kirsti made clear that children were a deal-breaker. I said, "Give me just a couple of minutes to think about that. I'll come back to you." Ultimately, I decided that I would sign on and I would say, "Yes, okay. If we go on a third date, I promise that if this works out I will have some babies for you." Flash-forward a few years later, and indeed I did. We got me pregnant with the use and the assistance of a known sperm donor, and off we went to court thereafter to have Kirsti legally recognized as a parent.

We knew what we had to do. We are both lawyers; we have lots of law degrees. I had been involved in cases that were in and around this issue—in the past, I was counsel to the AABBCC family, where it was made possible for three parents to be legally recognized in Ontario. So we were intimately familiar with all of the hoops we had to jump through, and it was still really hard. It was such a terrible moment to be standing in court and have our lawyer, who we knew was representing us properly, and a judge who meant well, disappear into chambers to have a conversation about whether we'd be made a family or not.

We didn't have any reason to doubt that we would be, at all. But that is still a truly horrifying experience, to have even a moment go by where someone is considering whether it's in the best interests of your child for you to be their parents.

Ms. Cheri DiNovo: And you ran into difficulties giving birth and Kirsti was very concerned about not being able to leave the hospital with her child, your child, as married women.

Ms. Jennifer Mathers McHenry: I did, and that was one of two things that really drove it home for us, the fact that this is something that needed to change. I did have serious complications when I was giving birth to Ruby. The labour took something like 53 hours, and it did not go well. So there were points where it did not look like either Ruby or I might make it. We both did, thankfully, but certainly in that moment, Kirsti was not sure if she could go home. She was acutely aware of her lack of status and acutely aware of the fact that she couldn't really insist, had no standing to insist, and that was terrifying.

Then, of course, when Cy was born years later—we kind of thought that somebody would get around to fixing this in the intervening time, because the courts had demanded it a really long time ago, but nobody did. So we again went through a similar process. I'm in private practice. I went back fairly quickly to work. Kirsti was home on a leave and, notwithstanding the baby strapped to her chest, was told repeatedly by Service Canada that she was not a parent.

I think we need to start asking the right questions when we talk about who is a parent. It should be who is standing up saying, "I want to take responsibility for this child."

Ms. Cheri DiNovo: It has been said that this bill eradicates motherhood. You've got two mothers in your family. Talk about that.

Ms. Jennifer Mathers McHenry: I hate to say it, but I think that's a bit of a silly argument, because it supports motherhood. It supports all mothers. It takes out the word because, from a drafting perspective, if you're going to start talking about multiple parents, it becomes incredibly cumbersome to say "mother," "father," "other mother," "other father" etc. in every section.

Much as in other contexts, we're talking about what is the legal relationship, not what you are called at home. We have legal spouses, not legal husbands and wives, but nobody says that they can't have wives anymore; nobody says that they can't have husbands anymore. The legal relationship is "spouse," and then the nomenclature is whatever you want it to be.

Similarly here, the legal relationship and what the law is concerned with is who is a parent. The law doesn't really care what your title is behind closed doors.

Ms. Cheri DiNovo: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much. We appreciate it.

MS. QUEENIE YU

The Chair (Mr. Peter Tabuns): We have one last presenter: Queenie Yu. Ms. Yu? If you'd have a seat, Ms. Yu. I'm Peter Tabuns. I'm the Chair of the committee. You may not have heard this previously: You have five minutes to present. If you would start by identifying yourself for Hansard. When you've finished your five minutes, you'll be asked questions in rotation by the three parties. Please proceed.

Ms. Queenie Yu: Sure. Thank you. My name is Queenie Yu. Honourable members of provincial Parliament, thank you for allowing me to speak today. We're here to talk about the All Families Are Equal Act, so we're here to talk about the family. I'd like to start by talking about my family.

My mother and father emigrated from Hong Kong and China, respectively. Not being fluent in English, the jobs that they got were in factories and restaurants. They experienced a lot of injustices at their workplace, but they continued to work for the sake of my sisters and me. My mother, when I was a kid, would come home, telling me often that she wanted to quit her job but she would continue for the sake of my sisters and me.

The sacrifices that my parents made for us are typical of the sacrifices that all Chinese people and all new Canadians make when they immigrate to Canada. Our family is the reason why we exist and the reason why we continue to live. So you can understand why it's so im-

portant for the Chinese and other new Canadians to understand and comment on Bill 28: Because it's about the family, our reason for existing and living.

In discussing Bill 28 with a number of people in the Chinese community, a lot of questions came up. The bill is not an easy read, not even for a native English speaker, so they asked, "Can we get a translation?" But there was no time to translate it. There was no time to read it, understand it and write their comments in English by today's deadline.

The question they asked was, "Does the government really want our opinion on Bill 28?" They looked up the names of the presenters for the hearings, yesterday's and today's, and they said, "Queenie, look; look at the last names of all those presenters. You're probably the only visible minority." How many of those speakers have English as their second language? Probably none, or not many. So they said, "We've been excluded. The government talks about diversity, inclusion and equality but the list of presenters does not reflect the diversity that we see when we walk on the streets."

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We looked at the transcript of the second reading of Bill 28 and the debate: over 50 pages. Mr. Hillier talked about the need for full and thoughtful deliberation and discussion, that a bill such as this can't be rammed through. The Chinese community and new Canadians agree with Mr. Hillier. If the bill is rammed through, those who don't speak English as their first language cannot truly participate in the democratic process. If there was more time for them to give their input, they would not feel excluded from this consultation process. But not a single MPP brought up the idea to consult the Chinese community and other ethnic groups. What they said was, "So much for diversity, inclusion and equality."

We looked at the committee composition. Only one of the three MPPs who expressed some opposition to the bill is here today. If a new Canadian were in my place, giving this presentation, I'm sure they would think how intimidating it is to oppose a bill in front of eight MPPs who fully support the bill in a language that is not my mother tongue.

My Chinese friend said, "Queenie, I fled China because of Communism but I still don't find democracy here, especially not with the public consultation process of Bill 28. If the government rams this bill through, we will remember this at voting time in 2018."

Mr. Peter Tabuns: Thank you. And with that, we go to the official opposition: Mr. Hillier.

Mr. Randy Hillier: Thank you, and thanks for being here and sharing your thoughts. I find it difficult to fully comprehend and understand what's in this legislation.

Ms. Queenie Yu: Join the club.

Mr. Randy Hillier: It's a significant read, and it's not easy. I do think legislation needs to be done in a deliberate, methodical—and being asked to vote on something when you don't fully comprehend what the impacts of it will be. We know there are some positive impacts in here. We've heard from many people. But it's very difficult to understand what, if any, negative impacts there are. I do think that we haven't had enough opportunity to examine this bill in detail and provide informed agreement or informed consent.

I know that next week we have clause-by-clause. I hope the government hears your concerns that you've expressed today and that we do take the time to make sure that we do get it right and that we do, if there are deficiencies or unseen consequences in the bill, take the time to find them and address them in the bill before we are asked to vote on it at third reading. Thank you for being here today.

Mr. Peter Tabuns: Thank you very much. Ms. Martow?

Mrs. Gila Martow: I just want to add that, even though the presentations are done and even though people can't email or deliver presentations, we will be debating this, and I always invite people to email the members here, whether it's their member or representative or not, to find out who's going to be speaking on the bill and to express concerns, because a lot of times things that I will speak about in debate aren't things that I necessarily thought of on my own; it's something that somebody phoned me or emailed me about and I said, "You know, that's an interesting concern. That's something I hadn't thought about on my own."

So I really would invite anybody who has any concerns—it is difficult sometimes, with language barriers and things like that, but I see a nice community here and I think that everybody can get together and help each other if there are any language concerns. Thank you for coming in.

Mr. Peter Tabuns: Okay. Thank you very much, Ms. Martow. Third party: Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair. You know, I appreciated your story about your parents coming from China. It brought back to mind a wedding that I just performed—I'm a United Church minister—of a wonderful Chinese Canadian, Kristyn Wong-Tam, and her partner, Farrah Khan. It was an incredible wedding. There were many Chinese folk present—her first-generation parents and others—and her spouse, who is a Muslim Canadian woman of colour. I would say that most of the people in that room were people of colour.

One of the things that she spoke to me about at that point was Cy and Ruby's Act, which was the precursor of this bill. It was my bill, which I tabled almost a year ago. They asked because they plan on having children and they want their children to be born as equal children to everybody else's children in this country. I was moved by that as well, that support.

Just a little bit of background: This has not happened overnight. This is the result of court challenges that have gone on for 10 years. The courts have mandated that the government act on this because this is a discriminatory situation. The charter challenge was upheld. It was seen as discriminatory against LGBTQ families and that's why we're here. We're here to protect the children of those families.

Do you believe that LGBTQ families' children should have equal rights under the law as children born to straight families?

Ms. Queenie Yu: I believe in equality, but I don't believe in cutting out the mother, and I think this is what the legislation does.

Ms. Cheri DiNovo: Excuse me. If I could, Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes.

Ms. Cheri DiNovo: There was just a mother up here testifying just before you came in. They are actually mothers—mostly mothers—who required the court challenge. This is actually to protect two-mother families.

We just heard a story that was actually quite telling, and could have meant that this child not have the same rights as other children. So it's protecting all mothers, not just mothers in heterosexual families, but all mothers.

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo.

Ms. Yu.

Ms. Queenie Yu: In doing a search of the bill for the word "mother," the only time she appears is when she's being struck out. Under the Vital Statistics Act, it says, "The definition of 'still-birth' in section 1 of the act is amended by striking out 'from its mother' and substituting 'from a person'."

Also, in subsection 16(1), it says, "The definition of 'birth' in section 1 of the Vital Statistics Act is repealed and the following substituted:

"'birth' means the complete expulsion or extraction from a person of a fetus that did at any time"—

Ms. Cheri DiNovo: Excuse me, Ms. Yu. I'm aware of what the bill says—

The Chair (Mr. Peter Tabuns): Just a second, Ms. DiNovo. Thank you, Ms. Yu.

Ms. DiNovo.

Ms. Cheri DiNovo: I'm very aware of what the bill says. The only reason it does that is because it's inclusive. It includes all parents, not just mothers. That was very carefully explained by the testimony just before you. Absolutely respectfully I would suggest that you read the transcripts of the other people who have testified here. They gave a very comprehensive explanation for why.

It certainly is inclusive of more mothers than the current laws, and that's what we're hoping for—and inclusive of all children.

The Chair (Mr. Peter Tabuns): Thank you, Ms. DiNovo.

Ms. Yu, you would like to finish, I'm sure.

Ms. Queenie Yu: China had its one-child policy. The mother's rights were trampled on because she could have no control over her own body. Chinese immigrants didn't know that the Wynne government would actually outdo the Communists and get rid of mothers entirely. Mothers aren't mentioned in the act of giving birth any more in this bill.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Yu. You're out of time. We'll go to the government.

Mr. John Fraser: Ms. Yu, thank you very much for your presentation today. I want to assure you that we take all testimony before us into consideration when we take a look at a piece of legislation.

I want to repeat something I said yesterday. It was something my father told me a long time ago. It was that there were two things a child needed to thrive: one was a loving parent, or parents, and that that person, or persons, take a genuine interest in them. And, that whatever the person's circumstances were—who they were, what their station in life was, where they lived, what they could afford or not afford—if you had those two ingredients, those were essential for a child to thrive.

To oppose this piece of legislation is to stand between that relationship, and that's not right.

I would hope that that would be something that you would consider. This is not about eliminating anybody's rights. It's about recognizing people's identity and allowing them to identify themselves as mothers or fathers or whatever they wish.

You spoke of the injustices that many new Canadians experience coming here, and we have a lot in our history that should really concern and trouble us. In North America we had laws against interracial marriage. Those were declared unconstitutional in 1967. In Alabama, they took them off the books in 1999. In Canada, we didn't have any except with our aboriginal partners. If an aboriginal woman married a man, she lost her identity and so did her children. That didn't come off the books until 1951.

It's incumbent upon us, all of us here at the table—and Ms. Martow put it so well earlier on; I don't know if I could put it any clearer. We're here to raise the bar. We have to examine our biases and attitudes continuously. If we don't, we fail to progress, and if we fail to progress, that's not good for any us.

I want to thank you very much for your presentation here today. I have no questions for you.

The Chair (Mr. Peter Tabuns): If he has no questions, there is no question.

Ms. Queenie Yu: Can I ask you a question?

The Chair (Mr. Peter Tabuns): No, actually, you don't have the right to do that. He has the right to ask a question. If he does not, then we're finished.

Thank you, Ms. Yu, for your presentation today.

Ms. Queenie Yu: Thank you, Mr. Chairman.

The Chair (Mr. Peter Tabuns): Members of the committee, I want to remind you that your amendments are due at noon this Thursday the 20th to the Clerk. On Monday the 24th, we will resume clause-by-clause at 2 p.m. The Clerk will send an email out to members of the committee with information on legislative counsel for drafting any amendments.

With that, we stand adjourned.

The committee adjourned at 1743.

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